

Drug-Trafficking in Colombia:

The New Civil War Against Democracy and Peacebuilding

Received: 29/07/2020 | Reviewed: 15/12/2020 | Accepted: 02/02/2021
DOI: 10.17230/co-herencia.18.34.6

María P. Espejo-Duarte*

mespejo@uwo.ca

Abstract Drug-trafficking in Colombia has been a widely researched phenomenon, especially now, as the country undergoes a transition process with its oldest guerrilla. Now more than ever it is fundamental to examine how drug-trafficking organization's violent activities affect the consolidation of peace. This article considers different approaches to study violence derived from drug-trafficking, in order to advance towards the objectives of transitional justice. For that matter, this work is based on the idea that drug-trafficking directly generates and reproduces violence which is fueled by the structural violence present in the Colombian context. My thesis supports that this phenomenon deters non-repetition guarantees and weakens democracy, which is why, I will develop three main arguments that will revolve around the lack of consensus, and the implications of: considering drug wars as civil wars, how decisions related to the conceptual apprehension limits the competence of international humanitarian law, and the need for holistic strategies capable of facing drug-trafficking's political and violent power. Later, alternatives will be explored around the possibilities that each argument offers, as well as which aspects could contribute to a more appropriate approach to combat drug-trafficking. Lastly, I will defend why implementing bottom-up oriented actions can advance towards transitional justice's intermediate and final objectives, as it is the only alternative that escapes fatalist, utopian or interventionist scenarios.

Keywords:

New civil war, drug-trafficking, non-repetition, democracy, peace, violence.

* CulturePlex Lab - Western University, Canadá. ORCID: 0000-0001-5742-5841.

Narcotráfico en Colombia: La nueva guerra civil en contra de la democracia y de la construcción de paz

Resumen El narcotráfico en Colombia es un fenómeno ampliamente investigado, en especial ahora, cuando el país vive un proceso de transición con la guerrilla. Hoy más que nunca resulta fundamental examinar cómo las actividades delictivas de las organizaciones dedicadas al narcotráfico dificultan la consolidación de la paz. Este artículo revisa diferentes acercamientos al estudio de la violencia derivada del tráfico de drogas, con el fin de avanzar hacia los objetivos de la justicia transicional. Por ello, este trabajo parte de la premisa de que el tráfico de sustancias ilícitas genera y reproduce actos criminales promovidos por la violencia estructural en el contexto colombiano. Mi tesis sostiene que este fenómeno priva las garantías de no repetición y debilita la democracia, con tres argumentos principales en torno a la falta de consenso y a las implicaciones de considerar las guerras contra las drogas como guerras civiles; la forma en la que cierta aprehensión conceptual limita la competencia del derecho internacional humanitario, y la necesidad de aplicar estrategias holísticas para encarar el poder político y criminal del narcotráfico. Se exploran también las posibilidades que brinda cada argumento, y las contribuciones a un acercamiento más factible para combatir dicho fenómeno. Por último, defiendo por qué las acciones de abajo hacia arriba permitirán el avance hacia los objetivos intermedios y finales de la justicia transicional, ya que es la única alternativa que se aleja de los escenarios fatalistas, utópicos o intervencionistas.

Palabras clave:

Nueva guerra civil, narcotráfico, no repetición, democracia, paz, violencia.

In Colombia, it is well known that one of the key factors in the protracted conflict, as well as of the magnitude and the impact of violence, has been drug trafficking (Pizarro Leongómez, 2015). Considered from different dimensions, drug trafficking has generated multiple impingements in Colombian society, determined the course of violence and allowed the conflict to continue, especially after the “Bonanza Marimbera” opened the market for trafficking cocaine, and the rise of big drug cartels like the ones from Cali and Medellín. In addition, the political agenda has been oriented by international policy. These two combined factors have generated a series of dynamics that have established a cyclical pattern around the “War on Drugs”, which reproduces scenarios of violence at local levels while the

ongoing conflict has contributed to strengthening the international political discourse (Gaviria & Mejía, 2011). Altogether, it has become a bottleneck to overcome violence and a hindrance to achieving transitional justice's ultimate goals of reconciliation and democracy.

Colombia, Drug-Trafficking and Peace

Within the recent *Colombian peace agreement for the end of the conflict and the construction of a stable and lasting peace*, signed between the Government of Colombia and the Fuerzas Armadas Revolucionarias de Colombia, Ejército del Pueblo - FARC-EP, a whole chapter was dedicated to the "Solution to the Problem of Illicit Drugs" (Acuerdo de Paz, 2016). Mostly because both negotiating teams were aware that drug trafficking is a paramount phenomenon to be addressed in order to transition from war to peace. Therefore, the main goal of the present text is to analyze different alternatives to approach the violence derived from drug-trafficking in order to advance toward the final objectives proposed by transitional justice.

The past few decades have made it clear that a repressive approach to put an end to drug-trafficking in Colombia has only atomized big cartels into numerous armed groups and gangs that continue to terrorize the civil population while reinforcing structural violence (Duncan, 2009), while becoming a principal impediment for peacebuilding, as it fosters the continuation of violent cycles.

The thesis for this work is that drug trafficking in Colombia hinders non-repetition guarantees and the strengthening of democracy. Consequently, I will discuss three main arguments to support it. The first focuses on the lack of consensus on whether violence derived from drug-trafficking organizations is a (new) civil war or not. Despite public policy and international discourse being built around the slogan "War on Drugs" (Arias, 2017; Armenta & Jelsma, 2015; Sandvik & Hoelscher, 2017) or academics using terms as "drug wars" (Albarracín & Barnes, 2020; Kalyvas, 2015; Lessing, 2018; Mackey & López, 2009) there is not a common ground on the acerbity of classifying this type of violence as a kind of war, even if it is accompanied with a complement such as new civil war (Kaldor, 2001),

postmodern civil war (Giraldo, 2009), or by a substitute, like conflict, armed-conflict, or cartel-state conflict as described by Lessing (2018).

The lack of consensus becomes problematic as it limits the possible strategies to tackle the issue and determines what jurisprudence may –or may not– apply, according to how it is labeled, which leads to my second argument. The violence derived from drug-trafficking organizations (DTOs)¹ lies within a gray zone in international law. Drug-trafficking is a kind of organized crime because it comprehends a series of actions carried out by a group of people who seek profit from illicit activities (UNODC, 2020). The obstacle appears within the limitations offered by that framework, since the resulting *violence* is generated by drug-trafficking activities, and there are victims at the hands of DTOs armed factions. Hence, civil population is not fully covered by the mechanisms designed to protect and to hold those accountable of crimes such as displacement, recruitment, and massacres that are included in bounding international normative.

The lack of a defined framework to address DTOs violent effects in countries like Colombia hinders the success of the transition process from war to peace because it prolongates the violent period. Therefore, the third and last argument I develop is that an approach that tackles the effects of drug-trafficking that is limited to non-holistic strategies can hamper peacebuilding, where a non-holistic strategy is the one that fails to consider violence, deterrence in civic and institutional trust, and socio-political, as well as the socio-economic impacts of drug-trafficking. The previous elements impede the strengthening of democracy and, more worryingly, non-repetition, due to the continuum of violence –and as a result, contribute to the failure of reaching transitional justice’s objectives.

This text intends to present the current debates and to contribute towards the search for alternatives in order for the transition process in Colombia to be successful. The aforementioned arguments are based on the idea that drug-trafficking generates and reproduces direct violence, which is fueled by the structural violence in

¹ Drug-trafficking organizations is a term introduced by Angélica Durán-Martínez in her book *The Politics of Drug Violence: Criminals, Cops, and Politicians in Colombia and Mexico* (2018).

which Colombian society has developed. Moreover, although the discussion is oriented toward the Colombian case, the findings are not exclusively reserved to it.

A last segment will be devoted to analyze the possibilities to overcome the obstacles that drug-trafficking presents in the current scenario in Colombia. In that section, I will deepen on why bottom-up peacebuilding strategies that focus on civic trust, recognition, and the strengthening of a political culture are the only ways to “cleanse” democracy from drug-trafficking’s influence in both political powers, and in legality. Also, I will propose the future lines of research that I consider pertinent to advance with the bottom-up strategies as I acknowledge the rewards of investing in political culture as a long shot.

How Much of “War” Fits in Drug-Trafficking?

The literature and academic research about wars and civil wars is rich and extensive. In the present, multiple bodies and treaties regulate what is allowed during and after violent periods. The previous refers to the bounding judicial advances, like the mere agreement around *ius cogens*, *ius ad bellum* and *ius in bello*, just to mention a few, and how much humanity has learned from wars over the past centuries. One of the classical definitions is the one proposed by Bobbio (1992), where war is a compound concept with three elements: a conflict, between independent political groups whose actions are led by organized violence. Another definition for war is given by Bouthol as an armed and bloody struggle between organized groups (1971, p. 35). The second definition is not only wider but also more appropriate for the upcoming discussion.

The evolution of the modern state has reshaped how civil wars look like nowadays. Giraldo (2009) points out how after Second World War, more specifically after the pacifism powered by Woodrow Wilson in Versailles (2009, p. 27), the legacy of the brutality imparted in the concentration camps and bombings around Europe, as well as the nuclear bombs, created an atmosphere for a “never again” feeling that triggered the basic idea of war to shift toward a “burial”

of the term. As if the disuse of the word would bury its existence altogether. On the contrary, it sacrificed valuable advances in terms of tools, debates and historical analysis that have studied war and its implications.

Even though wars between states are not today's patterns, violence keeps taking place around the globe for multiple causes and between different actors. Overtime civil wars have changed in general, technical, motivational, behavioral and positional aspects, as the configuration of the international system has advanced on setting rules for the coexistence between states. Nonetheless, the attempt to bury the word "war" has led to a concept stretching that has caused the emergence of new terms which have just added details to the original concept of war (Giraldo, 2009, pp. 45-47).

The previous has surfaced new debates around civil wars such as the one on new civil wars introduced by Kaldor (2001), and the response given by Kalyvas (2015), where the second argues that wars have always included a criminal quota, making those "new" and "old" wars to lack substantial differences. Most importantly, new debates as well as the new concepts to describe postmodern civil wars between armed parties has hampered the protection of many civilians under emerging violent contexts, as it is the case for the victims of the violence exercised by DTOs armed factions.

Drug-Trafficking Derived Violence

A kind of armed confrontation has gained strength over the past few decades due to the violent capacity it has showcased and how it has been increasingly executed, namely, drug-trafficking. The study of the phenomenon as a potentially "new" way of civil war has received different names in the literature over recent years, such as drug wars (Kalyvas, 2015), cartel-state conflicts (Lessing, 2018), or non-conventional violence (Sandvik & Hoelscher, 2017). It has been addressed from diverse disciplines and angles (Albarracín & Barnes, 2020; Kalyvas, 2015, pp. 1-2), but there is no consensus on how to refer to the violence derived from it; in other words, to the victims of the armed factions that work for –or are part of– cartels.

The previous indicates that despite the growing studies on criminal violence, a common conceptual framework is urgently needed.

There is a common ground which catalogues drug-trafficking as organized crime. According to the United Nations Convention against Transnational Organized Crime through the General Assembly resolution 55/25 of 2000, an organized criminal group refers to

a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offenses established [in the Convention], in order to obtain, directly or indirectly, a financial or other material benefit (UNODC, 2004, p. 5).

Even if DTOs fit the description of an organized criminal group, there are various reasons why apprehension falls short to fully cover the drug-trafficking phenomenon, which will be addressed shortly. What I want to highlight is that even if other kinds of trafficking like arms, people, or even organs have an organized structure around an illegal activity to receive financial or material benefit, and even if they also use violence, their organizations do not have as many similarities with insurgencies in terms of relations with state and civil population as DTOs do.

Both Kalyvas (2015) and Lessing (2018) have studied drug trafficking's organized crime as wars. On one hand, Kalyvas' starting point in Collier and Hoeffler (2004) helped him find that drug cartels have three aspects relatable with insurgencies: organization, use of violence or combat, and territory and governance (Kalyvas, 2015). The first corresponds to a hierarchical organization that allows cartels to endure and adapt over time, including codes of conduct for indoctrination and a chain of command (Staniland, 2014). The second is the significant use of violence, including the possession of sophisticated weaponry in order to protect their economic interests, and thirdly, they have the capacity to strip the state not only from the monopoly of violence but also of territorial control (Kalyvas, 2015). As drug cartels need to control trafficking routes, the population in those territories live under DTOs' rules, enabling them to exert control of institutions through bribery of

police officers, as well as campaign financing in order to influence political decisions.

On the other hand, Lessing (2018) departs from the Tyllian perspective under which “states make civil war and civil war makes states” (Tilly, 2017). Therefore, he finds common characteristics between states and drug cartels. Namely, eliminating armed opposition, establishing a monopoly on the use of force, and consolidating the rule of law and protection of civilians (Lessing, 2018, p. 278). In Lessing’s book *Making Peace in Drug Wars*, he analyzes the retribution between corrupt states and cartels, while drafting how the fight against drugs has been characterized by unfruitful repression that has resulted in an rise of violent activities from the cartels’ side (Lessing, 2018). Eventually, the increase in cartels’ assorted sources of power has exposed the inability of the states to play their role, such as their inability to protect their own population, the discredit of institutions, and the disclosure of perverse elite interest for the continuation of the conflict due to the personal profit acquisition which is indirectly made from drug trafficking.

An important aspect on why the description of organized crime group fails to fully comprehend DTOs is that many criminal groups take analogous form toward the state (Albarracín & Barnes, 2020). For example, insurgent and paramilitaries groups in Colombia became active in illicit markets to finance their squads as well as to fund their political projects (Arias, 2017; Durán-Martínez, 2018). Another case is the one from El Salvador, where existing street gangs were incorporated in the FMLN (Farabundo Martí National Liberation Front) during the country’s civil war, where those same groups were later absorbed by the *maras* after the peace agreement (Wolf, 2017). The Zeta’s in Mexico, which were originally Mexican and Guatemalan special force units created to fight counterinsurgency, later became the armed faction of the Gulf cartel (Albarracín & Barnes, 2020; Correa-Cabrera, 2017). Despite the group’s origins, their warfare familiarity becomes tempting for cartels not only because of their expertise with weapons but also because of the context of Latin American countries with relatively

young democracies, following an existing violent legacy, and where it is not novel to find legality and illegality closely intertwined with corruption.

As a result, the lack of a common conceptual framework capable of encompassing the characteristics of drug-trafficking has failed to properly recognize the victimhood of those who have suffered displacement, massacres, selective assassinations, and recruitment at the hands of DTOs. In addition, the disuse of the word “war” has also impacted this matter; there are currently multiple types of armed conflicts that have specific characteristics to be considered as such, leaving the civil population at the expense of the agility of domestic legal bodies to create legal frameworks to effectively protect and repair them.

Drug-trafficking is in fact one kind of transnational organized crime, but it also generates systematic violations to human rights. It has the ability to cooperate with state actors while it can also play as their antagonist; it may not overthrow the political system but coerce it in order to continue with its illegal activities. Since drug-trafficking is such a lucrative business with a considerable amount of political and economic power involved, the routes control becomes a competition and an armed struggle among different DTOs. As a consequence, it is clear that these organizations have a violent nature, as they exercise violence on the civil population, whether they combat the state or other illegal organizations.

In the introduction to the text it was mentioned that DTOs are fueled by the structural violence present in the Colombian context. After reviewing the war, civil war and organized crime concepts, it is possible to sustain that a definition of organized crime describes the interest of the DTOs, but fails to subsume the violence exercised over civil population, and against states or other illegal organizations. Therefore, over the following sections, drug-trafficking derived violence will be understood as a postmodern civil war rooted in structural violence, with the resulting relations that link the legal and illegal world in the economic and political arenas. Also, the need to tackle this war responds to the interest to secure the rule of law, as well as to break the cycle of violence.

Drug-Trafficking Violence: A Gray Zone in International Law

Drug wars have taken place mostly in Latin American, more specifically in Mexico, Brazil and Colombia, where the civil population has been placed under a humanitarian crisis framework as the number of victims from urban violence, displacements, land grabs, massacres and a series of systematic human rights violations has risen dramatically throughout the past few decades (Sandvik & Hoelscher, 2017). The former has come to the attention of the United Nations and other humanitarian organizations such as the International Red Cross, and *Medecin Sans Frontiers*, to mention a few, who have been deployed in these countries for over a decade. The amount of financial resources allocated to attend these crises has been significant. For instance, Colombia received around \$7 billion from the United States between 2000 and 2010 for this purpose (Sandvik & Hoelscher, 2017).

As this text focuses on the obstacles for the consolidation of peace in Colombia, in the coming section I will use the Colombian case to showcase how the violence caused by drug-trafficking is immersed in a gray zone in international law. Therefore, the first part of the analysis will be made under the “War on Drugs” logic, implemented in the country since the beginning of the century, while the second segment will refer to general aspects of international law.

Colombia’s War on Drugs

Colombia has not been autonomous in making decisions to deal with the scourge of drug trafficking. On the contrary, the country has been subordinated to the guidelines demanded and established by the United States of America and the United Nations. This was evident during the UN Conventions on Drugs promoted by the United States in 1961, 1971 and 1988. In the later year, the United States proclaimed a frontal declaration of War on Drugs. As a result, the war against the world’s cocaine, poppy and marijuana growing communities intensified and the immediate political response of the Americans

was to declare war on foreign supply (Medina, 2012) rather than addressing the reasons that encouraged their domestic consumption.

In the early 1970s, the Andean territories became battlefields, and the US prompted the United Nations to summon another conference to draft the *Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988*. The new treaty forced countries to radically combat all aspects of illicit drug production and imposed new judicial cooperation between countries including extradition (Armenta & Jelsma, 2015), an agreement that elevated violence in Colombia (Duncan, 2013). During the late 80s and early 90s Colombia went through a dark chapter of its history as the DTOs openly fought the government and terrorized civil society.

The plan revolved around the US oriented policy known as “Plan Colombia”, which not only defined the fight against drugs but also impacted the armed conflict dynamic in the country (Uprimny & Saffon, 2011). During the implementation of this plan there were several human rights violations carried out from both legal and illegal armed actors, as the labels shifted from an armed conflict to terrorism. The lack of a defined conceptual framework for the derived violence of drug-trafficking favored the strengthening of DTOs, and left the civil population unprotected, since the targets of direct violence were not considered victims of an armed group, but rather as sufferers of organized crime, as if there was no existing political interest in play. This serves as an additional example of the consequence of foregoing the use of war as a prevailing concept.

In subsequent years, President Santos summoned the *Summit of the Americas* in 2012 to promote a special session of the United Nations to rethink the fight against drugs. During the 2016 UNGASS session, Santos gave a reformist speech calling for a shift in the anti-crop focused policies for a novel strategy that respected the rights of coca grower peasants and their families (Santos, 2016). However, this idea did not see the light because Santos continued to intensify the war against drugs in Colombia with the old dynamics that favored eradication at the expense of poverty perpetuation in the most affected rural areas.

These dynamics display the inconsistencies between the discourses presented worldwide and the practical inability that the Colombian government has shown to transform the dynamics of drug policies in the country. This is surely tied to the military pressure that the U.S. government has constantly exerted on Colombia demanding rapid but unsustainable results in crop eradication, in addition to the threat of international discredit if the country fails to comply with the international commitments on drugs set by the North American government in the different conferences and international arenas.

International Law and Drug Trafficking

According to the previous section, drug-trafficking related activities have directly impacted the armed conflict in Colombia. Financing armed conflicts necessarily includes illegal activities, which may include extortion, ransoms, smuggling, drugs, etc. (Cox, 2017, p. 128). After all, there is a certain logic of illegal groups financing their actions from illegal economies. What has not been as clear under international law is the proximity between gross and systematic human rights violations generated by DTOs and the mandate from international law enforcement bodies over those crimes. The victims of DTOs derived violence are somehow in a gray area lacking recognition as they are not victims within an armed conflict context.² In fact, it can be argued that this creates a second-class victimhood, which forecasts the necessity to adjust the scope to read these specific scenarios.

The mandate of the International Criminal Court includes four sets of crimes: crimes against humanity “committed as part of a widespread or systematic attack directed against any civilian population”, war crimes, crimes of aggression, and genocide (ICC, 2011), none of which include drug-trafficking, resulting in these

² While victims are in a kind of gray area, some light had shed over DTOs on this regard. For example, Haer (2015) examines whether organizational structures of armed groups influence patterns of human rights violations, and Staniland (2014) studies how organizational cohesion of insurgent groups explain civil war outcomes. This helps to understand how armed groups’ internal organization influence levels of violence, and contribute to address DTOs adaptability inside and outside armed conflict contexts.

victims to be dependent on the political decisions made by the governments. As it has been mentioned in the previous sections, drug trafficking's main objective is economic (Sainz-Borgo, 2012) and it is not necessarily circumscribed within an armed conflict, which is why it is typified as organized crime under the UN's Convention Against Transnational Organized Crime.

In that line, one tempting proposal could be to include the derived violence from DTOs in the mandate of international humanitarian law, not the crop-growing, transportation, selling or money laundering process, but to hold accountable those responsible for gross human rights violations despite not being a guerrilla, paramilitaries, or militaries. As the evidence from Brazil, Mexico and Colombia proves, the violence exercised by DTOs meets the criteria to be considered as a threat to peace, security and human rights, because they engage in systematic violations of crimes contemplated by the Rome Statute. They also meet the war criteria as they generate conflict, fight other armed legal and illegal organizations, and are guided by organized violence. Moreover, DTOs are actors in an armed and bloody struggle among organized groups as it had been shown while discussing the concept of war.

A similar approach could be valuable to countries with illegal economies in African and South Eastern Asian countries that have criminal organizations structured similarly as armed-groups, like DTOs. Unfortunately, this is not a very feasible approach to Colombia or hardly any country for various reasons. Firstly, because of the power needed within the international community for it to be in the agenda, debate, approval and agreement to modify the Rome Statute. Secondly, since Colombia recently became a member of the OECD (Organization for the Economic Co-operation and Development) and it goes against the national interest in the international arena (El Tiempo, 2020). Thirdly, due to the blow to sovereignty that such an intervention would represent, especially after the set-up of the Truth Commission and the Special Jurisdiction for Peace negotiated in Havana.

As a result, the derived violence from DTOs is within a gray zone in the international law arena, since half of the drug-trafficking

phenomenon is met by the public international law normative as transnational organized crime. The other half fails to adequately address the victims of such groups beyond a humanitarian crisis treatment. This is an important discussion to be held while trying to overcome such violent settings, where the civil population depends on individual political decisions that might have been persuaded or threatened by DTOs, which makes it difficult to judge those responsible of atrocity, or to guarantee non-repetition.

As Uprimny suggests, a legal debate around the crimes that should be included as part of international obligation could benefit from a broader application of the duty extending to all behaviors that could be considered as “gross violations of human rights” (Sánchez & Uprimny, 2019, p. 28), especially when the goal is to protect civilians over prosecuting individuals; the broader the scope, the wider the mechanisms to prevent, protect and repair.

Transitioning in the Middle of War

Transitional justice is characterized by being an exceptional time under which exceptional measures are taken. It can be defined as a concept of justice associated with political change (Teitel, 2003, p. 19), as it attempts to target democracy over the lapse of time taken to shift from violent logic to societal norms –under the frame of rule of law. Within its interest there is a retrospective and a prospective (Van Zyl, 2011) approach. It gives importance to understanding what happened, and why, while planning where society is heading, how it will be achieved, and what is needed to get there. During the 80s, transition was mostly based on a “forgive and forget logic” (Sánchez & Uprimny, 2019); it has become more demanding over time.

The advances made in the field of international law over the past four decades have contributed towards a binding nature for the implementation of most transitional justice mechanisms in war-torn societies. Its framework and fundamental principles are collected under different international instruments such as the Rome Statute, treaties, conventions, customary practice, United Nations resolutions,

the jurisprudence of the International Courts and doctrine, among others (Cohen, 2006, pp. 59-88). The requirement of transitional justice measures is to provide the maximum reestablishment of human rights in the interest of peacebuilding, democracy, and reconciliation.

Hence, transitional justice sets a series of measures to address the legacy of massive human right abuses, classified by two levels of objectives: intermediate and final. Within the first group are the recognition and the promotion of civic trust, while the latter includes reconciliation, and democracy (De Greiff, 2009, p. 44). The former reveals the final goal to help societies with violent conflict settings by establishing a democratic system that allows citizens to reaffirm the social contract. That means, (re)building reliable institutions, a competent judicial system and independent press (Quinn, 2009). Likewise, it exhorts individuals to overcome *Us vs. Them* logics in order to foster recognition and civic trust, whilst aiming for reconciliation –either as coexistence or forgiveness.

The four mechanisms –justice, truth, reparation and guarantees of non-repetition– are to be implemented holistically. They are aligned with Van Boven's proposal in the formulation of victims' rights when he served as UN's Special Rapporteur in 2005 (Van Boven, 2010, p. 5). It is worth noting that each of these mechanisms, despite being intertwined, are a whole world of literature on their own. They enclose other aspects of peacebuilding as studies on memory (Jelin, 2003), forgiveness (Tutu, 1999), vengeance (Minow, 1999), and language (Suárez & Lizama-Mué, 2020), among many others. At the same time, they can be addressed from different approaches such as gender, territorial, or ethnic perspectives.

Finally, it is imperative to distinguish between the holistic perspective of transitional justice mechanisms, as well as the lessons learned in previous cases³ from the inexistence of a recipe for success (Bloomfield, 2006). Transitional justice, including the universe of phenomena and conflict-related problems it encompasses, starts with adapting to the context (Bloomfield *et al.*, 2003). There is no such thing as a one-size-fits-all in this arena. Literature has repeatedly

³ For example, South Africa, Liberia, Sierra Leone, Uganda, El Salvador, Guatemala, Northern Ireland, among others.

shown that what works in one place, does not necessarily work in another, even within the same country (Quinn, 2009). Intendedly, it is up to each state to formulate its own⁴ strategy that responds adequately to its context, including as much as it can from the four mechanisms aforementioned.

Transitional Justice in Colombia

Colombia's transition path is not new, the country has been immersed in multiple negotiations and agreements in the past three decades. Some have been successful and have resulted in the disarmament, demobilization and reintegration of guerrillas like M-19 (Gobierno & M-19, 1990), Quintín Lame, Ejército de Liberación Popular (EPL), and Partido Revolucionario de los Trabajadores (PRT) during the late 80s and early 90s. It is also important to frame these negotiations in a context where the Cold War was getting to an end, and guerrilla wars started to lose political and economic support.

Meanwhile, the world dealt with massive human rights violations that challenged the response of the international system to address the legacy of systematic violence, as it was the case of the Rwandan genocide (1994) and the Bosnia genocide (1995), without mentioning a long list of civil wars catalogued as protracted internal conflicts around the world. The previous is highly relevant because that was when the young field of transitional justice strengthened and delimited its objectives in accordance with what is expected from transition. Accordingly, as time has passed by, international law and international humanitarian law have become stronger and stricter on the expectations from states, actors, justice and repair. Ergo, "forgive and forget" was no longer a sufficient strategy to confront the legacy of gross human rights violations.

During 2005, the government of Colombia passed the 975 Law known as Peace and Justice, a byproduct of the private talks in San José de Ralito, Córdoba, between the paramilitary group

⁴ Or with the assistance of the international community as in the case of Sierra Leone.

Autodefensas Unidas de Colombia (AUC) and the government. Peace and Justice law is, without hesitation, another mayor reference in the field of transitional justice in the country. Mainly because this was the first time such ideas were introduced in the national context (Uprimny & Guzmán, 2010) but, mostly, because it provided a legal framework where members of criminal organizations –AUC paramilitaries– appeared before a court to face conspiracy to commit crime allegations. Nonetheless, the 975 Law is highly controversial; critics have considered that it lacks mechanisms capable to assure truth, reparation and non-repetition guarantees⁵ (Guzmán *et al.*, 2010). Additionally, several studies have focused on evaluating Peace and Justice law limitations and outcomes (Ambos *et al.*, 2018; Gómez y Correa, 2015; Chavarría, 2012), where some have found that even though the process is one of a kind, it represented serious discrepancies with transitional justice goals and objectives.

Peace and Justice was not a victim-centered process (Torregrosa, 2011). On the contrary, the law was a result of the government's interest to dismantle a criminal organization within a "terrorism context", where the least of interests was recognizing the existence of an ongoing armed conflict. Another main criticism came after changes were introduced and suggested by the Constitutional Court to the 975 law, where reconciliation and forgiveness expectations were highly questioned by victims, victims organizations and human rights advocates (Aponte, 2011; López & Castellanos, 2014). Victims were deliberately encouraged to play along their role on transition and to grant forgiveness to former AUC combatants with little to no guarantees or structural changes (Delgado, 2011, 2015; Uprimny & Saffon, 2008). For instance, authors like Cuervo (2017) have affirmed that Peace and Justice law was conceived within a macro-criminal context that turns it in a policy of submission to justice. He even argues Peace and Justice contravenes the very principles of criminal law, and impedes it to be acknowledged as a process that complies with the principles of truth, justice, reparation and non-repetition guarantees.

⁵ This led to a change in the original project introduced by the Sentence C-370/2006.

As a consequence, the article will not focus on the Peace and Justice experience as there is not enough space to properly address its potential contributions to this particular debate. Moreover, since there are several incongruences between the process and the transitional justice vision apprehension that this article endorses: the relevance of the victims at the core of the transition process. Nonetheless, further research is encouraged on the lessons learned from Peace and Justice to deal with DTOs and their derived violence.

On another note, it is most likely that the truth and justice interest of the Colombian government was grounded on the practices introduced by bodies like the Special Court for Sierra Leone (2002), the Good Friday Agreement in Northern Ireland (1999), the Truth and Reconciliation Commission of South Africa (1996), Chapultepec Peace Accords of El Salvador (1992), the National Commission for the Truth and Reconciliation in Chile (1990), and the National Commission on the Disappearance of Persons in Argentina (1983). It is not random that the Final Accords (2016) with FARC guerrilla constantly refer to these processes as examples to determine what is essential in the present transition.

A second part of the transition process in Colombia started with the Peace Agreement signed in 2016 with former FARC guerrilla (Fuerzas Armadas Revolucionarias de Colombia) negotiated in Havana, Cuba and signed in Bogota. In order to activate the mechanisms suggested by transitional justice, three main institutions were created: Special Jurisdiction for Peace (JEP) by the Statutory Law 1957 of 2019; the Commission for the Clarification of Truth, Coexistence and Non-Repetition by the decree Law 588 of 2017; and the Unit for the Search of Persons Reported Missing in the context and because of the armed conflict by the decree Law 589 of 2017. It is also important to remember that Colombia approved the Rome Statute by the Law 742 in 2002, which entered in effect the same year (except for crimes against humanity), which come into effect from 2009. In this way, Colombia kept the sovereignty to administer justice by its own without an intervention from the International Criminal Court.

Drug-Trafficking and Transitional Justice in Colombia

Overcoming drug-trafficking in Colombia is pivotal to advance peace in the country. One example is the Peace Agreement signed with the M-19 guerrilla in the early 90s, which in its Point Six calls for the assembling of a non-governmental, autonomous and, independent academic commission to investigate the national and international dimensions of the phenomenon in terms of production, trafficking and consumption of drugs.

Also, in previous negotiation attempts, during the *Common Agenda for Change Towards a New Colombia* in 1999, FARC proposed twelve points for the negotiation agenda with the National Government. In this proposal, drug trafficking came under Point Six, entitled: “justice reform, fight against corruption, and drug trafficking” (Gov. of Colombia, 1999). This was not gratuitous; it was in response to what Colombian history has shown, due to the relevance that drug-trafficking and DTOs have had over the civil war in the country.

Under the administration of Alfonso López Michelsen (1974-1978) was operated the “sinister window”, where illegally constructed fortunes were legalized through money laundering in the Central Bank as under-invoicing of imports (Medina, 2012, p. 150). This serves as an example on how legality and illegality do not fall far behind from each other. In Colombia it is easy to find examples of illegality bringing legality as the case of Puerto Asís, Putumayo (Torres, 2012), where drug trafficking injected enough capital for the town to claim administrative power.

For instance, a way to show how this practice impacted the national economy was the disproportionate increase in its international reserves, which did not follow the country’s growth rate. While in 1968 the net reserves were US\$35M, in 1981 they reached US\$5,630M (Castillo, 1987). This was favorable during the so-called “lost decade of Latin America”, but it was counterproductive in subsequent years as drug lords were cornered and ultimately hit causing the decrease of the cash flow and the emergence of new DTOs.

During the war, guerrillas and paramilitary groups found new ways to finance their activities, obtain weapons, and recruit more men through money from cocaine in its different production stages. By taking advantage of the lack of state presence in rural territories, they became the law and order in the places with the greatest number of illicit crops. These actors even began to charge a certain type of “tax” on drug production and exports (Uribe, 1997) to fund their ranks and operations (Vargas, 1999). The Colombian economy received an estimated \$2 to \$4 billion in the mid- 1980s and \$2.5 billion annually during the 1990s (Thoumi, 2002). The influence of drug cartel money and illegal armed actors was such, that any criminal group capable of exporting fifty thousand tons of cocaine per year was comparable to the net profits of the country’s most prominent companies. Eventually, drug trafficking gained the capacity to change the economic power structure in Colombia (Thoumi, 1995), showing the economic capacity of DTOs that has been ultimately used to coerce the effective actions of institutions responsible for fighting them.

The peace process in Havana made an advance toward a more appropriate way to approach the fight against illicit drugs (González, 2013), since the process and the agreement encourage public debate on re-evaluating the anti-drug policy and illicit crops. The Accords recognize it is a vital issue for overcoming violence and peacebuilding in the country.

Nonetheless, since the Peace Agreement was signed, coca production in Colombia has increased (El Tiempo, 2020). Coca cultivation reached 212 000 hectares in 2019 from 208 000 hectares in 2018, while coca production increased by 8 % to 951 metric tons in 2019, from 879 metric tons in 2018 (White House, 2020). In 2019, the Ombudsperson Office reported the presence of Mexican cartels in the country (Defensoría del Pueblo, 2019), and simultaneously, the presence of new armed groups who seek to consolidate territorial and trafficking routes control (El Espectador, 2019).

New groups have brought a new wave of violence over rural territories where the state was unsuccessful to fill the gap left by FARC. More importantly, in addition to an active guerrilla –ELN

(National Liberation Army, in English), several residual groups from the AUC demobilization, dissident groups of FARC and the new armed groups associated– or part of– DTOs, Colombia is facing transition sunken in an ongoing armed conflict.

The implications of pursuing the transition from war to peace while the violence continues backs my thesis of the inability to guarantee non-repetition or the strengthening of democracy for two main reasons. The first is that the implementation of the Agreements becomes harder when other armed groups remain active, especially demobilization, as it becomes easier for former combatants to either join another group or be recruited due to their experience. A second reason is that as long as DTOs' derived violence is not considered closely relatable to those of illegal armed groups in conflict, new victims will be generated at their expense. In other words, even if the government of Colombia signed a peace agreement with ELN, the state would still not regain the monopoly of violence as DTOs would continue to control, terrorize and make use of their warring power.

Additionally, over 555 social leaders have been assassinated across the country between 2016 and 2019 (Defensoría del Pueblo, 2019). Human rights defenders and social leaders have been targeted for being spokespersons supporting the implementation of Peace Agreements, specifically, Point 4 on crop substitution. The War on Drugs implemented under the supervision of the United States has failed for decades. Failing to recognize drug wars as a new kind of civil war that has adapted to the contemporary context is to turn our backs on civilians living in areas dominated by these organizations. Beyond their interests, differences or similarities with insurgencies, the violent capacity of DTOs is harming hundreds. The question is: Where does the emphasis lie? In the responsibility to protect or in the existing legal boundaries?

Unfortunately, for the Colombian case, the special bodies have limited mandate over the derived violence of drug-trafficking. For instance, the Truth Commission, under the decree Law 588 of 2017 Art. 11.11 has the mandate to establish “the relationship between conflict and illicit crops, production and commercialization of illicit drugs, and the laundering of assets derived from the phenomenon

from the drug trade” oriented in non-repetition. The Commission lacks teeth to introduce structural changes on how the drug war should be faced, as it is limited by the production of recommendations.

Likewise, JEP’s mandate also falls short to punish drug-trafficking as a generator of systemic human rights violence, as it already emitted amnesties for those linked to drug-trafficking as a political-related offense. Primarily, because they included it within the mandate with the specific interest of avoiding extradition for FARC Secretariat, and because as it has been mentioned before it is considered as a transnational crime. Furthermore, JEP is not including drug-trafficking as one of its seven macro-cases, mainly because such crimes fall out of the scope of the jurisdiction in alignment with the Rome Statute. The previous can be understood as it responds to, what I would like to call, three principles for special mechanisms: prioritization, expectations control, and institutional capacity. The pursuit of drug-trafficking as a crime at the JEP could potentially contribute to overflow the quality of the court’s outcomes, especially with such limited jurisprudential, and conceptual, resources to legally address DTOs derived violence.

Drug-trafficking in Colombia has defined the course of violence, as it is described by the Historical Commission of the Conflict and its Victims (Duncan, 2015; Giraldo, 2015; Pizarro Leongómez, 2015). It has contributed to the consolidation of the interrelation among insurgencies and private security groups, as well as the bonds between national and periphery elites whose accumulation of economic resources has allowed them to gain autonomy from central power. At the same time such accumulation has impacted the national political dynamic (Pizarro Leongómez, 2015, p. 69), including phenomena like *parapolítica* and *narco-política*. This relation between DTOs and political powers at local, regional and national levels has contributed to the persistence of civil war in Colombia.

The decentralization process after the Constitution of 1991 introduced the transfer of national resources to municipalities and –unintendedly– ended up fostering a close relation between ballots and weapons, a connection that made it easy for DTOs to expand their influence over political and economic decisions in the country.

Not only political candidates and public servants were targeted and assassinated but also voters were constrained as decentralization allowed major control over territories with less effort through securing local institutional power. The main example of the way in which drug trafficking permeated politics is the *Proceso 8000*, the biggest political corruption scandal in Colombian history (López Restrepo, 1997). The election of the president-elect for the 1994-1998 period, Ernesto Samper, was challenged on the grounds of alleged improper campaign financing. The previous depicts the dimension and impact of “informal” negotiations between state agents and organized crime, such as the *parapolitica* scandals.

As a result, drug wars not only endanger but also obstruct democracy and the possibility of a transition to more peaceful societies. One of the main differences between insurgencies and organized crime groups, such as DTOs, is that the first have a political and ideological agenda, while the second is only interested in protecting its economic activity⁶ (Kalyvas, 2015). Despite this difference, both of them can coordinate and associate to activate, or allow violence for the sake of personal financial or material benefits.

Despite being relatively new when compared to criminal law studies, transitional justice is able to adapt to emerging contextual demands. In this regard, transition in Colombia is not likely to succeed if the effects of drug-trafficking over democracy and over civil population do not cease. They ought to be addressed with holistic strategies that directly tackle violence, fragile civic trust, socio-political and socio-economic effects over society. As an example, nowadays *postbellum* seems too limited or inappropriate because of the unstable or undermined boundaries between conflict and post-conflict situations (Teitel, 2013, p. 339). Probably, drug wars comprehension and recognition has been limited. Human rights revolution has waged in the context of new constraints and expectations of democratization, meaning that the *postbellum* justice needs to transcend earlier limits and address security not solely for states but also for people (Teitel, 2013, p. 342).

⁶ Protecting their economic activity includes but is not limited to: territorial control, bribery, and constraint to public officers from police to political leaders.

Exploring Alternatives to Overcome DTOs Derived Violence

In this work, I have developed three main arguments around how drug-trafficking in Colombia hinders non-repetition and the strengthening of democracy from the outset of persisting structural violence that fuels DTOs. Accordingly, I will build on the arguments to discuss some alternatives to overcome drug-trafficking's effects.

The first section was mainly a discussion around the concepts of war and civil war, as well as how much it fits the phenomenon of drug-trafficking. In this sense, the alternative could also be to adopt a concept of *just war*, by admitting that wars happen, and while they do, there is an obligation to guarantee the rights of people and communities (Giraldo, 2009, p. 217).

Taking this concept as a guideline, it could be expected that DTOs became more aware of the effects they cause in civilians. Nonetheless, there are two main problems: the first one is that they have no obligation toward civil society (as different from any other citizen), and they have not adopted an International Humanitarian Law framework; the second one is that they do not have any sort of recognition as an armed party in a civil war. In other words, they are criminals that exercise violence and are combated as such. In the end, it is not likely that they will autonomously adopt a behavior according to the *just war* concept that would lead towards a reduction of their use of violence.

In the second section I presented the argument about the gray zone where drug trafficking lies; more specifically, the derived violence by the action of DTOs. In this matter, the alternative is to extend the mandate of International Humanitarian Law to deal with those responsible within or associated with DTOs, after recognizing their warfare capacity and systematic violation of civil population human rights, as well as of any other insurgent groups.

Unfortunately, in realistic terms this is the least favorable and expedite for the Colombian case, as it was concluded that such an intervention is not desirable for the country. Also, the mere

debate around the entrance of the ICC could lead to an escalation of violence in the country, as it was seen during the agreement on extradition with the United States at the end of the 20th century. Additionally, even within transitional justice, there are existing debates on the applicability of the duty to criminally prosecute and its consequences (Sánchez & Uprimny, 2019), so thinking about introducing such an alternative can generate noise and discomfort. From my perspective, it would be easier to promote the idea of just war by recognizing the elements imprinted in the violence engaged with drug-trafficking organizations than to change the existing international legal framework for this particular interest. In order to make a specific distinction, the first step would have to be the creation of a different category that gathers the elements presented by insurgencies and those of organized crime groups.

Another possibility is to activate transitional justice mechanisms to deal with these particular actors only if after a context diagnosis they represent a threat to the consolidation of peace. As a matter of fact, this could result in an interesting exercise, as it would have to be determined whether typical armed conflict strategies could work with DTOs.

In my proposal, just as in transitional justice the mechanisms adopted change from case to case, it would be necessary to analyze whether some strategies might help. Actually, a special mechanism designed to boost democratic practices within institutions and civilians would be of great use to countries like Colombia. In contrast, I consider that strategies like negotiation are not as applicable to these groups due to their core interests.

Evidence from truces between gangs and governments have already taken place, such as the one between the government of El Salvador and gangs in Barrio 18 and Mara Salvatrucha (Kalyvas, 2015, p. 10). As a result, the homicide rate decreased 57 % between 2011 and 2012 (Kalyvas, 2015). Beyond the lack of cartels' political or ideological ground for a peace negotiation, efforts should be invested toward halting the violence cartels engender, recovering the monopoly of the same, and (re)gaining full territorial control of the state.

Controversially, one of the biggest obstacles toward ending drug cartels through negotiation is corruption. The fight against illegal economies, not only drug trafficking, is notably challenging because it reproduces a vicious circle. The hardest task is to shift the elite's interests and have them prioritize social wellbeing over personal revenue from these economies (Lessing, 2018). Likewise, it encompasses the strengthening of the democratic system, which is not among their interests since it is precisely its weakness that allows political elites to make personal profit.

Another setback of talking about negotiating with cartels is what the state has to offer. Drug trafficking is lucrative because it is illegal, so from that point, it is already hard to think of something that could compete with the cash inflow that the drug chain offers. Additionally, since this kind of groups have a hierarchical organization, a negotiation with one drug lord does not translate into the group's dismantling (Medina, 2012), as many others are ready to fill in the position and carry on with the trafficking. In sum, an alternative can be sketched from the adoption of certain treatments given to insurgencies but not all, just as it happens with the organized crime definition for DTOs, it is adequate but not accurate.

From another perspective, if the state and organized crime do not cooperate, then indiscriminate violence increases (Albarracín & Barnes, 2020), but if they do work together, then democracy is hit by corruption and political power is seized by illegal armed groups that will continue to affect civilians. One thing these two ways have in common is the lack of the monopoly of violence from the state, which makes it especially difficult to find an alternative focused on protecting people and communities, while a weak democracy is incapable of fully guaranteeing the rule of law.

Lastly, in the third section I developed the idea of tackling drug-trafficking effects with holistic strategies, in consonance with the way transitional justice is to be implemented. This comes from the idea of harmonizing the obligations that states may have that enter in conflict (Sánchez & Uprimny, 2019, p. 50). In other words, this means to balance the obligation to address violence imparted on

civil population whilst guaranteeing non-repetition, even if that means to reshape its institutions until the point where they are fully capable of ensuring the rule of law.

Regarding the Colombian case, as it was discussed in the third section, decentralization had an important impact on local and regional political dynamics. DTOs, private and political parties became closer while the power of such organizations grew and consolidated at the different government levels. Ballots and arms became a constant during elections, candidates and elected representatives assumed great risks of being assassinated or acted in cooperation with DTOs and/or other illegal armed groups. This not only represents a blow to democracy, it extends to society as the political culture was deterred by the illegal parties' influence.

For example, between 1978 and 2010, abstentionism for presidential elections in Colombia had an average of 54 % (Registraduría Nacional, 2013) with only two years with an abstention below 50 %. This indicates that the absolute winner for the highest office in a democracy for the past twelve elections has been the abstentionism. I acknowledge Colombians have a number of difficulties at the time of voting because of the long hours citizens have to walk or travel, and the effort it represents for those living in distant rural areas. Despite those facts, the statistics do not lose any relevance. Another example is the plebiscite for peace in 2016, where either by difficulty, lack of interest or mere civic irresponsibility, abstentionism reached 62,59 %, surpassing presidential elections of 2014 (Álvarez & Garzón, 2016).

After reflecting upon the utopic ideal that DTOs adopt a logic of just war where life and rights of people and communities is to prevail over private interests, analyzing the difficulty in broadening the scope of international public law toward drug-trafficking derived violence, and considering the idea of a new mechanism, or an international intervention, the alternatives seem to lead to either utopic or fatalistic ends. On the bright side, the previous data on abstentionism, despite being discouraging, contributes to shape the one positive alternative of the present text: increasing the efforts to foster political culture and citizenship.


The alternative has two explanations, where the first one is that in drug-trafficking contexts decision makers are coerced or threatened by DTOs harm capacity, making it almost impossible to succeed on the war on drugs. The second is that the design and implementation of an eventual special body in charge of “cleaning” democracies with DTOs presence is not very likely to take place, or even if it did, it would constitute a significant grand scale social experiment. In consequence, transitional justice has documented that there are bottom-up and top-down strategies to work toward peace and reconciliation (Quinn, 2009), and for this particular case a bottom-up strategy focused on civic responsibilities can not only advance toward transition’s intermediate objectives of recognition and civic trust, but also build on the strengthening of democracy that could ultimately guarantee non-repetition as it gets “cleansed” from the clutches of DTOs.

A bottom-up strategy of political culture can make emphasis in the importance of different levels of governments, judicial mechanisms, and collective responsibility (Arendt, 1968) while overcoming abstentionism and indifference. After reviewing alternatives and exploring different angles of the violence exerted by DTOs, this is the way in which a country in transition like Colombia, with a legacy of drug wars, can potentially secure peace, or at least, negative peace. It also encompasses funds allocations and a serious compromise from social organizations, international agencies, and even national institutions to opt for political culture as a strategic move toward the strengthening of democracy and non-repetition. I acknowledge it is a long shot and a bet on long-term results, which are not the most popular among policy makers, but after years of failure in the Drug on Wars strategy and the endemic violence that drug-trafficking has introduced in the Colombian civil war, after 40 years of cartels, gangs, and other types of DTOs, it is worth taking political culture with seriousness and commitment.

Conclusion

The present work started from the baseline of drug trafficking as a generator and breeder of violence fueled by the structural violence conditions in which the Colombian population lives. The objective was to discuss whether drug trafficking hinders non-repetition and the rule of law after developing three main arguments around: a) the employability of concepts such as war and civil war to determine its relatability with drug-trafficking organizations violent actions; b) the existence of a gray zone that impedes the mediation of international humanitarian law to mediate the responsibility, accountability and reparation of victims from those associated or active members of DTOs, and c) the nuance in violence's effect on democracy, especially under the light of transitional justice. Alternatives were explored to find solution-oriented strategies that might have the capacity to advance toward democracy and non-repetition altogether with the interest on breaking the cycle of violence in the country.

Alternatives were explored in alignment with the three main arguments, whose findings showed that most of the alternatives are long-term strategies that need compromise, funding and political interest. Also, most of them led to either fatalist or utopian ends. The one alternative that seems to outline a way around violence is that of collective responsibility in the shape of political culture. Despite being also a long-term approach, it is the one that proposes a positive view of the years ahead.

Overall, the thesis is proved by the three arguments as there is no way to guarantee non-repetition in the Colombian context while DTOs persist, especially the derived violence usually exercised over the already victimized civil population. As a result, further research is promoted on fostering the political culture during ongoing conflict, and on how democracies can be “cleansed” during transitioning processes, where the change is not from dictatorship to democracy. Another promising line of research leads us to determine whether, and how, the level of independence of special mechanisms influence their outcomes in terms of truth, justice, reparation and non-repetition, taking as an example the Peace and Justice tribunal 

References

- Albarracín, J., & Barnes, N. (2020). Criminal Violence in Latin America. *Latin American Research Review*, 55(2), 397-406. <http://doi.org/10.25222/larr.975>.
- Álvarez Vanegas, E. y Garzón Vergara, J. C. (2016). Votando por la paz: entendiendo la ventaja del “No”. *Fundación Ideas para la Paz*. <https://bit.ly/32g8JF0>.
- Ambos, K., Cortés Rodas, F., & Zuluaga Taborda, J. (2018). *Justicia transicional y derecho penal internacional*. Siglo del Hombre Editores.
- Aponte Cardona, A. D. (2011). *Persecución penal de crímenes internacionales, diálogo abierto entre la tradición nacional y el desarrollo internacional*. Pontificia Universidad Javeriana, Fundación Konrad Adenauer Stiftung.
- Arendt, H. (1968). Responsabilidad colectiva en *Responsabilidad y juicio*. *Átopos*, xvii-xxiv. <https://bit.ly/3tjxLyL>.
- Arias, E. (2017). *Criminal Enterprises and Governance in Latin America and the Caribbean*. Cambridge University Press. doi:10.1017/9781316650073.
- Armenta, A. & Jelsma, M. (2015). *Las Convenciones de drogas de la ONU. Guía Básica*. Transnational Institute.
- Bloomfield, D. (2006). *On Good Terms: Clarifying Reconciliation*. Berghof Report No. 14. Berghof Research Center for Constructive Conflict Management, October.
- Bloomfield, D., Barnes, T., & Huyse, L. (2003). *Reconciliation After Violent Conflict: A Handbook*. International IDEA. <https://bit.ly/2RCeKtt>.
- Bobbio, N. (1992). *El problema de la guerra y las vías de la paz* (J. Binaghi, Trad.). Gedisa.
- Bouthol, G. (1971). *La guerra*. Plaza & Janés.
- Castillo, F. (1987). *Los jinetes de la cocaína*. Editorial Documentos Periodísticos.
- Chavarría Olarte, G. C. (2012). Estrategias utilizadas para la satisfacción de la garantía de no repetición en desmovilizados de grupos armados ilegales: un estudio con desmovilizados de grupos paramilitares de

- las Autodefensas Unidas de Colombia. Medellín, Valle de Aburrá – Colombia. *Revista Facultad de Derecho y Ciencias Políticas*, (42), 195-252. <http://www.scielo.org.co/pdf/rfdcp/v42n116/v42n116a08.pdf>.
- Cohen, D. (2006). Transitional Justice in Divided Germany after 1945. In J. Elster (Ed.), *Retribution and Reparation in the Transition to Democracy* (pp. 59-88). Cambridge University Press. <https://doi.org/10.1017/CBO9780511584343>.
- Collier, P., & Hoeffler, A. (2004). Greed and Grievance in Civil War. *Oxford Economic Papers*, 56(4), 563-595. <https://bit.ly/3uKeRS0>.
- Colombia se convierte oficialmente en el estado 37 de la OCDE. (2020, April 28). *El Tiempo*. <https://bit.ly/3uQAXSK>.
- Correa-Cabrera, G. (2015). *Los Zetas Inc.: Criminal Corporations, Energy, and Civil War in Mexico*. University of Texas Press.
- Cox, M. (2017). A Framework for Reimagining Order and Justice: Transitions in Violence and Interventions in a Global Era. In A. Warren & D. Grenfell (Eds.), *Rethinking Humanitarian Intervention in the 21st Century* (pp. 117-144). Edinburgh University Press. DOI:10.3366/edinburgh/9781474423816.003.0006.
- Cuervo Criales, B. (2017). *Macrocriminalidad y política de priorización en el marco de la justicia transicional*. [Tesis de Doctorado, Universidad de Barcelona]. <https://www.tdx.cat/handle/10803/401338>.
- De Greiff, P. (2009). Una concepción normativa de la justicia transicional. En A. Rangel Suárez et al. (Eds.), *Justicia y paz ¿Cuál es el precio a pagar?* (pp. 33-35). Intermedio Editores y Fundación Seguridad y Democracia.
- Decree Law 588. Presidency of the Republic of Colombia, April 5, 2017.
- Decree Law 589. Presidency of the Republic of Colombia, April 5, 2017.
- Defensor del pueblo denunció presencia del cartel de Sinaloa en Caquetá. (2019, June 7). *El Espectador*. <https://bit.ly/3gb1FkU>.
- Defensoría del Pueblo (2019). *XXVI Informe del Defensor del Pueblo al Congreso de la República. Parte I – Informe Analítico: Situación de los Derechos Humanos y Derecho Internacional Humanitario en Colombia – 2018*. <https://www.defensoria.gov.co/public/pdf/XXVI-Informe-del>

- Delgado Barón, M. (2011). Una justicia transicional sin transición: verdad, justicia, reparación y reconciliación en medio del conflicto. *Revista Análisis Internacional*, (4), 53-67. <https://revistas.utadeo.edu.co/index.php/RAI/article/view/86/100>.
- Delgado Barón, M. (2015). La ley de justicia y paz en Colombia: la configuración de un subcampo jurídico-político y las luchas simbólicas por la inclusión. *Revista de Relaciones Internacionales, Estrategia y Seguridad*, 6(2), 179-194. <https://doi.org/10.18359/ries.110>.
- Duncan, G. (2009). El dinero no lo es todo: acerca del narcotráfico en la persistencia del conflicto colombiano. In *A la sombra de la guerra: Ilegalidad y nuevos órdenes regionales en Colombia* (pp. 165-212). Uniandes, Centro de Estudios Socioculturales.
- Duncan, G. (2013). Una lectura política de Pablo Escobar. *Co-herencia*, 10(19), 235-262. <https://doi.org/10.17230/co-herencia.10.19.9>.
- Durán-Martínez, A. (2018). *The Politics of Drug Violence: Criminals, Cops, and Politicians in Colombia and Mexico*. Oxford University Press.
- Gaviria, A., & Mejía, D. (Eds.). (2011). *Políticas antidroga en Colombia: Éxitos, fracasos y extravíos*. Ediciones Uniandes.
- Giraldo Ramírez, J. (2009) *Guerra civil posmoderna*. Siglo del Hombre Editores.
- Gobierno de Colombia & FARC-EP (1999). *Agenda común por el cambio hacia una Nueva Colombia*. [La Machaca, 1999].
- Gobierno de Colombia & M-19 (1990). *Acuerdo político entre el Gobierno Nacional, los Partidos Políticos, el M-19 y la Iglesia Católica*. [Bogotá, 1990].
- Gobierno de Colombia & FARC-EP (2016). *Acuerdo Final para la Terminación del Conflicto y la Construcción de una Paz Estable y Duradera*. [Bogotá, November 12, 2016]. https://www.cancilleria.gov.co/sites/default/files/Fotos2016/12.11_1.2016nuevoacuerdofinal.pdf.
- Gómez Velásquez, A. & Correa Saavedra, J. (2015). ¿Sobredimensión de la tensión entre justicia y paz? Reflexiones sobre justicia transicional, justicia penal y justicia restaurativa en Colombia. *International Law, Revista Colombiana de Derecho Internacional*, (26), 193-247. <http://>

dx.doi.org/10.11144/Javeriana.il15-26.stjp.

- González Posso, C. (2013). En *La Habana: El laberinto con salida*. Instituto de Estudios para el Desarrollo y la Paz.
- Guzmán C., G., Fals Borda, O. & Umaña L., E. (2010). *La Violencia en Colombia. Tomo II*. Punto de Lectura.
- Haer, R. (2015). *Armed Group Structure and Violence in Civil Wars: The Organizational Dynamics of Civilian Killing*. Routledge.
- International Criminal Court (2011). *Rome Statute of the International Criminal Court*. <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>.
- Jelin, E., Rein, J., & Godoy-Anativia, M. (2003). *State Repression and the Labors of Memory*. University of Minnesota Press. www.jstor.org/stable/10.5749/j.ctttstktq.
- Kaldor, M. (2001). *Las nuevas guerras: Violencia organizada en la era global* (M. L. Rodríguez Tapia, Trad.). Tusquets.
- Kalyvas, S. N. (2015). How civil wars help explain organized crime—and how they do not. *Journal of Conflict Resolution*, 59(8), 1517-1540. <https://doi.org/10.1177/0022002715587101>.
- Lessing, B. (2018). Conclusion. In *Making Peace in Drug Wars: Crackdowns and Cartels in Latin America* (pp. 276-298). Cambridge University Press.
- López Morales, A., & Castellanos Guarín, D. (2014). *¿Es la cárcel un medio punitivo adecuado para los procesos de paz en Colombia. Reflexiones sobre cárcel y castigo en el modelo de justicia transicional colombiano*. [Cuaderno de trabajo]. CITpax Colombia, Observatorio Internacional DDR-Ley de Justicia y Paz. <https://www.legal-tools.org/doc/a76f03/pdf/>.
- López Restrepo, A. (1997). El presidente que se iba a caer: diario secreto de periodistas sobre el 8.000. *Análisis Político*, (30), 120-122. <https://bit.ly/2RrE59i>.
- Mackey, R., & López, E. (2009, July 16). The Tet Offensive of Mexico's Drug War? *The New York Times*. <https://nyti.ms/3uQmiH8>.
- Medina Gallego, C. (2012). Mafía y narcotráfico en Colombia: elementos para un estudio comparado. En A. Vargas Velásquez (Coord.), *El*

- prisma de las seguridades en América Latina: Escenarios regionales y locales* (pp. 139-172). Consejo Latinoamericano de Ciencias Sociales, CLACSO. <https://bit.ly/3mNh4cL>.
- Minow, M. (1998). *Between Vengeance and Forgiveness*. Beacon Press.
- Pizarro Leongómez, E. (2015). Una lectura múltiple y pluralista de la historia. In Comisión Histórica del Conflicto y sus Víctimas, *Contribución al entendimiento del conflicto armado en Colombia* (pp. 5-98). Observatorio de Paz y Conflicto: Informes CHCV. <https://bit.ly/3dCghqL>.
- Quinn, J. R. (2009). What of Reconciliation? Traditional Mechanisms of Acknowledgement in Uganda. In J. R. Quinn (Ed.), *Reconciliation(s): Transitional Justice in Postconflict Societies* (pp. 174-206). McGill-Queen's University Press.
- Registraduría Nacional del Estado Civil (2013). *Abstencionismo electoral en Colombia: una aproximación a sus causas*. Registraduría Nacional del Estado Civil, CEDAE, GAP. <https://bit.ly/2QrANIP>.
- Sainz-Borgo, J. C. (2012). The International Criminal Court, Drug Trafficking and Crimes against Humanity: A Local Interpretation of the Rome Statute. *The Journal Jurisprudence*, 15, 373-388. <https://bit.ly/3tp24nW>.
- Sánchez, N., & Uprimny, R. (2019). The Challenges of Negotiated Transitions in the Era of International Criminal Law. In *Beyond the Binary: Securing Peace and Promoting Justice after Conflict* (pp. 18-71). Antropos. [Archivo PDF]. <https://bit.ly/3g9UARL>.
- Sandvik, K. B. & Hoelscher, K. (2017). The Reframing of the War on Drugs as a “Humanitarian Crisis”: Costs, Benefits, and Consequences. *Latin American Perspectives*, 44(4), 168-182. <https://doi.org/10.1177/0094582X16683375>.
- Santos, J. M. (2016). Palabras del Presidente Juan Manuel Santos en la XXX Sesión Especial de la Asamblea de la Organización de las Naciones Unidas sobre el Problema Mundial de las Drogas. *Presidencia de la República de Colombia*. <https://bit.ly/32hdmOS>.
- Staniland, P. (2014). *Networks of rebellion: Explaining insurgent cohesion and collapse*. Cornell University Press.

- Statutory Law 1957. Congress of the Republic of Colombia, June 6, 2019.
- Suárez, J. L., Lizama-Mué, Y. (2020). Victims of Language: Language as Pre-condition of Transitional Justice in Colombia's Peace Agreement. In S. El-Masri, T. Lambert & J. R. Quinn (Eds.), *Transitional Justice in Comparative Perspective: Preconditions for Success* (pp. 97-128). Palgrave Macmillan.
- Teitel, R. (2003). Transitional justice genealogy. *Harvard Human Rights Journal*, 16, 69-94. <https://bit.ly/3ghYpUS>.
- Teitel, R. (2013). Rethinking Jus Post Bellum in an Age of Global Transitional Justice: Engaging with Michael Walzer and Larry May. *European Journal of International Law*, 24(1), 335-342. <http://www.ejil.org/pdfs/24/1/2385.pdf>.
- Thoumi, F. (1995). *Political Economy and Illegal Drugs in Colombia*. Lynne Rienner.
- Thoumi, F. (2002). Illegal drugs in Colombia: From Illegal Economic Boom to Social Crisis. *The Annals of the American Academy of Political and Social Science*, 582(1), 102-116. <https://doi.org/10.1177/000271620258200108>.
- Tilly, C. (2017). War Making And State Making as Organized Crime. In E. Castañeda & C. L. Schneider (Eds.), *Collective Violence, Contentious Politics, and Social Change: A Charles Tilly Reader* (pp. 121-139). Routledge.
- Torregrosa Jiménez, R. (2011). Algunas reflexiones sobre la justicia transicional en Colombia desde el Derecho de los derechos humanos y el Derecho Internacional Humanitario. *Diálogos de Saberes*, (35), 45-55. <https://bit.ly/3a9dpk4>.
- Torres Bustamante, M. C. (2012). *Coca, política y Estado: el caso de Putumayo 1978-2006*. [Tesis de Maestría, Universidad Nacional de Colombia]. <https://bit.ly/3sdKyl7>.
- Tutu, D. (2014). *The Book of Forgiving*. HarperOne.
- United Nations (1988). *Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988*. <https://www.incb.org/incb/en/precursors/1988-convention.html>.

- United Nations (2004). *United Nations Convention against Transnational Organized Crime*. [General Assembly resolution 55/25 of 15 November 2000]. [https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC %20Convention/TOCebook-e.pdf](https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf).
- Uprimny, R. & Saffon, M. P. (2011). Usos y abusos de la Justicia Transicional en Colombia. *Anuario de Derechos Humanos*, (4), 165-195. DOI: 10.5354/0718-2279.2011.13511.
- Uprimny, R. & Guzmán, D. (2010). En búsqueda de un concepto transformador y participativo para las reparaciones en contextos transicionales. *Revista Colombiana de Derecho internacional*, (17), 231-286. <https://bit.ly/3tmRkWQ>.
- Uribe, S. (1997). Los cultivos ilícitos en Colombia. Evaluación: extensión, técnicas y tecnologías para la producción y rendimientos y magnitud de la industria. In F. Thoumi (Ed.), *Drogas ilícitas en Colombia: su impacto económico, político y social*. Ariel, Dirección Nacional de Estupefacientes.
- Van Boven, T. (2010). The United Nations basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law. *United Nations Audiovisual Library of International Law*, 1-8. https://legal.un.org/avl/ha/ga_60-147/ga_60-147.html.
- Van Zyl, P. (2011). Promoviendo la justicia transicional en sociedades postconflicto. In F. Reátegui (Ed.), *Justicia Transicional: Manual Para América Latina* (pp. 47-72). Centro Internacional para la Justicia Transicional (ICTJ). <https://bit.ly/3aalvcv>.
- Vargas, R. (1999). *Drogas, máscaras y juegos: Narcotráfico y conflicto armado en Colombia*. Tercer Mundo Editores.
- White House (2020, March 5). United States and Colombian Officials Set Bilateral Agenda to Reduce Cocaine Supply. *Office of National Drug Control Policy*. <https://bit.ly/2REfoXz>.
- Wolf, S. (2017). *Mano Dura: The Politics of Gang Control in El Salvador*. University of Texas Press.